

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 359 be amended to read as follows:

- 1 Page 3, after line 42, begin a new paragraph and insert:
- 2 "SECTION 2. IC 4-13-18 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2006]:
- 5 **Chapter 18. Drug Testing of Employees of Public Works**
- 6 **Contractors**
- 7 **Sec. 1. This chapter applies only to a public works contract**
- 8 **awarded after June 30, 2006.**
- 9 **Sec. 2. As used in this chapter, "bid" includes a quotation.**
- 10 **Sec. 3. (a) As used in this chapter, "contractor" refers to a**
- 11 **person who:**
- 12 **(1) submits a bid to do work under a public works contract;**
- 13 **or**
- 14 **(2) does any work under a public works contract.**
- 15 **(b) The term includes a subcontractor of a contractor.**
- 16 **Sec. 4. As used in this chapter, "public works contract" refers**
- 17 **to:**
- 18 **(1) a public works contract covered by IC 4-13.6;**
- 19 **(2) a public works contract covered by IC 5-16 and entered**
- 20 **into by a state agency; or**
- 21 **(3) a state highway contract covered by IC 8-23-9;**
- 22 **when the estimated cost of the public works project is one hundred**
- 23 **fifty thousand dollars (\$150,000) or more.**
- 24 **Sec. 5. (a) A solicitation for a public works contract must**
- 25 **require each contractor that submits a bid for the work to submit**

1 with the bid a written plan for a program to test the contractor's
2 employees for drugs.

3 (b) A public works contract may not be awarded to a contractor
4 whose bid does not include a written plan for an employee drug
5 testing program that complies with this chapter.

6 Sec. 6. (a) A contractor's employee drug testing program must
7 satisfy all of the following:

8 (1) Each of the contractor's employees must be subject to a
9 drug test at least one (1) time each year.

10 (2) Subject to subdivision (1), the contractor's employees must
11 be tested randomly. At least two percent (2%) of the
12 contractor's employees must be randomly selected each month
13 for testing.

14 (3) The program must contain at least a five (5) drug panel
15 that tests for the following:

16 (A) Amphetamines.

17 (B) Cocaine.

18 (C) Opiates (92000 ng/ml).

19 (D) PCP.

20 (E) THC.

21 (4) The program must impose progressive discipline on an
22 employee who fails a drug test. The discipline must have at
23 least the following progression:

24 (A) After the first positive test, an employee must be:

25 (i) suspended from work for thirty (30) days;

26 (ii) directed to a program of treatment or rehabilitation;
27 and

28 (iii) subject to unannounced drug testing for one (1) year,
29 beginning the day the employee returns to work.

30 (B) After a second positive test, an employee must be:

31 (i) suspended from work for ninety (90) days;

32 (ii) directed to a program of treatment or rehabilitation;
33 and

34 (iii) subject to unannounced drug testing for one (1) year,
35 beginning the day the employee returns to work.

36 (C) After a third or subsequent positive test, an employee
37 must be:

38 (i) suspended from work for one (1) year;

39 (ii) directed to a program of treatment or rehabilitation;
40 and

41 (iii) subject to unannounced drug testing for one (1) year,
42 beginning the day the employee returns to work.

43 The program may require dismissal of the employee after any
44 positive drug test or other discipline more severe than is
45 described in this subdivision.

46 (b) An employer complies with the requirement of subsection (a)

1 to direct an employee to a program of treatment or rehabilitation
 2 if the employer does either of the following:

3 (1) Advises the employee of any program of treatment or
 4 rehabilitation covered by employer provided insurance.

5 (2) If the employer does not provide insurance that covers
 6 drug treatment or rehabilitation programs, the employer
 7 advises the employee of agencies known to the employer that
 8 provide drug treatment or rehabilitation programs.

9 Sec. 7. (a) The public works contract must provide for the
 10 following:

11 (1) That the contractor implement the employee drug testing
 12 program described in the contractor's plan.

13 (2) Cancellation of the contract by the agency awarding the
 14 contract if the contractor:

15 (A) fails to implement its employee drug testing program
 16 during the term of the contract;

17 (B) fails to provide information regarding implementation
 18 of the contractor's employee drug testing program at the
 19 request of the agency; or

20 (C) provides to the agency false information regarding the
 21 contractor's employee drug testing program.

22 (b) The provisions of the public works contract relating to
 23 cancellation of the contract by the agency awarding the contract
 24 apply to cancellation of the public works contract under this
 25 section."

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

Representative Van Haaften